

Statement of
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Before the
Energy and Air Quality Subcommittee
House of Representatives

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Chairman Hall and Members of the Subcommittee:

I am Lynne H. Church, President of the Electric Power Supply Association (EPSA) and am here today representing EPSA's member companies. EPSA is the national trade association representing competitive power suppliers, including generators and marketers. Our competitive power industry operates 40% of the installed electric generation capacity in the United States. In 2003, 36% of the power we produced competitively was coal-fired, 30% was from natural gas, and 24% was nuclear. The rest was hydroelectric, other renewables and miscellaneous fuels.

We build and operate power plants without regulatory guarantees or a captive customer base. Our members prosper only if they succeed in meeting the needs of electricity consumers. EPSA member companies have an established

track record of providing reliable, competitively priced electricity from environmentally responsible power facilities in the U.S. and global markets.

We appreciate this opportunity to comment on the electricity provisions in the Energy Policy Act of 2005, which in large part are identical to the House-Senate Conference Report from the last Congress. As our past testimony and correspondence makes clear, EPSA supports the passage of this legislation. We do not view the legislation as a panacea for all of the energy issues facing the nation. However, it includes many legislative changes that are long overdue and will greatly benefit our country. The reliability language, the transmission siting provisions, the repeal of PUHCA, the Congressional resolution supporting the development of better regional power markets, and the limited expansion of FERC oversight to some of the transmission capacity operated by public power are examples of positive public policy embodied in this legislation.

Let us encourage you to act swiftly. Regulatory uncertainty has a devastating impact on long-lead time, high capital cost projects – power plants. While many areas of the country have experienced a relative surplus of available generation capacity, we know this doesn't last. As the economy picks up steam, so does the demand for electric energy. Over the next five years, these surpluses will shrink and new capacity will need to be built.

Our companies are recovering well from the ill effects of the economic recession. Stock values are up. Debt has been reduced. And, in large parts of the country, broader regional wholesale markets are beginning to take hold and thrive. EPSA companies have invested over \$100 billion in new plants – at no risk

to their customers – over the past five years and are poised to bring new capital to meet emerging needs. We’ve built the most efficient, cleanest and best-run coal, natural gas and renewable power generation in the past, and we’re ready and able to build more. We have companies that, for the first time in a generation, are seriously considering new nuclear development. Do not put this critical investment at risk through endless deliberation or ill-advised legislative proposals.

On the other side of the ledger, we have consistently expressed our concern that the “SMD delay” language – a Senate addition – and the so-called “native load provisions” represent poor policy that do little to protect consumers and are more likely to encourage discriminatory behavior, less efficiency and higher societal costs. In addition, we join many other groups in opposing statutory language which prescriptively allocates transmission costs – the “participant funding” provisions.

As you consider this legislation, and any further changes to it, we ask you to keep in mind three basic principles:

First, electricity is a fundamental driver of our free market economy, and any legislation should ensure that our customers and businesses alike have access to the most efficient and innovative suppliers on the grid;

Second, electricity is by its very nature part of an interstate and, increasingly, international commerce. Large and seamless regional markets that reward efficiency and cost control will best enhance America’s overall ability to compete successfully in the global economy;

Third, the basic concept of “first do no harm” should apply – the collateral effects from incomplete or poorly thought out policy changes could have a negative impact on all electricity users.

We have seen the savings to consumers which competitive wholesale power markets and regional power markets can deliver. For instance, wholesale power prices dropped 16% in the East, when adjusted for fuel-price and demand variations, between the fourth quarter of 2003 and the fourth quarter of 2004. When the PJM footprint expanded into the Midwest, it allowed previously underutilized capacity to be sold into a larger market, increasing efficiency and decreasing prices. For your information, we have attached a chart detailing some of the cost savings from competitive wholesale power markets. It has also been shown that competitive electric markets can conserve natural gas. Competition rewards efficiency and forces the retirement of inefficient, obsolete facilities. In ERCOT, for instance, natural gas consumption in electricity production decreased by 3% from 1999 to 2003, while the electricity produced from this gas increased by almost 8%.

Before closing, we'd like to comment on a related phenomenon that should concern you. A number of states are returning to the use of regulatory guarantees and the creation of a regulatory rate-base to build new electric power generation. This approach guarantees that local consumers bear the risks associated with bad, mismanaged or unnecessary utility investment. Our recent history which required consumers to absorb some \$200 billion in “stranded costs” from exactly this kind of investment in the 1970s and 1980s should be a cautionary tale for all

of us. We have no objection to new rate-based generation investment, provided that it is tested and proved to be more beneficial to the consumer than a competitive alternative.

In conclusion, we urge this subcommittee to move the Energy Policy Act of 2005 forward swiftly. We have raised several issues that we hope will be favorably considered and resolved during action by the House and in conference. We strongly urge you to reject any dramatic new proposals which inject crippling regulatory uncertainty into an industry that is ready to commit the hundreds of billions in new investment needed by U.S. consumers.